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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,830	12/07/2004	Ronen Lin	1874-4050	7206

27123 7590 10/05/2007

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EXAMINER	
STEELE, JENNIFER A	

ART UNIT	PAPER NUMBER
1771	

NOTIFICATION DATE	DELIVERY MODE
10/05/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/516,830	LIN ET AL.	
	Examiner	Art Unit	
	Jennifer Steele	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54 and 66-70* is/are pending in the application.

4a) Of the above claim(s) *55-65* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-54 and 66-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claim 1-50 and 52-54 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275). The claims have been amended to add the limitation that there is at least one *interconnecting* reflective indicator and the "*one interconnecting reflective indicator is interconnecting in a manner such that said at least one interconnecting reflective indicator includes an elongation capability between 0% and at least 40% when the netting is elongated.*" The *interconnecting* reflective indicator is equated with the interconnecting transverse ribbons previous claimed. Mass teaches a knitted netting including a modified schuss that is about 30% longer than the prior art schuss provided by the knitting machine becomes narrower by about 12% at 60% elongation. Mass teaches the preferred

amount of elongation of the schuss length depends upon the particular netting application. For elastic pallet wrapping, the preferred actual schuss length is about 135% of the calculated schuss length for the netting (col. 3, lines 1-26). As the previous Office Action rejection stated, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine a reflective indicator fiber product of Tsunefuji in the knitted netting of Mass motivated to produce a knitted netting that will be visible at night. The combination of the reflective indicator fiber of Tsunefuji in the knitted structure of Mass will result in an elongation capability between 0% to 40% when the netting is elongated. The previous Office Action of 5/16/2007 rejection is maintained.

2. Claim 36 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275) and in further view of Wasserman (US 4,697,407). The previous Office Action of 5/16/2007 rejection is maintained.

3. Claim 50 and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275) and in further view of Chizmas (US 6,660,378). The previous Office Action of 5/16/2007 rejection is maintained.

4. Claim 66-70 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275). The previous Office Action of 5/16/2007 rejection is maintained. Claim 70 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275). Mass

teaches a knitted netting including a modified schuss that is about 30% longer than the prior art schuss provided by the knitting machine becomes narrower by about 12% at 60% elongation. For elastic pallet wrapping, the preferred actual schuss length is about 135% of the calculated schuss length for the netting (col. 3, lines 1-26). Mass teaches a range of elongation within the range of applicants claim 70 of "up to 200%" when the netting is elongated.

Response to Arguments

5. Applicant's arguments filed 7/12/2007 have been fully considered but they are not persuasive. The amendment to the specification to add that the reflective material can be substantially in the form of a liquid has been objected to in this Office Action as new matter.

6. Applicant's arguments that the 35 USC 103(a) rejection with respect to Mass in view of Tsunefuji are not persuasive. Applicant argues that Mass provides not teaching or suggestion regarding the inclusion of any elements or features outside the lateral and longitudinal ribbons that comprise the modified schuss knitted netting having the reduced lateral shrinkage referred to above. This argument is not commensurate with the scope of the claims. The claims do not disclose or recite a limitation of reduced lateral shrinkage.

7. Applicant's argues that Tsunefuji neither teaches nor suggests the fiber product disclosed therein as being formed as, or incorporated into any type of knitted netting, including a schuss-type knitted netting. Tsunefuji is relied upon to teach the feature of a

reflective strip or fiber or yarn. Tsunefuji is not relied upon to teach the structure of the knitted netting. Tsunefuji teaches the feature of a reflective fiber and yarn and therefore one of ordinary skill in the art could have substituted the known element for another and the results of the substitution would have been predictable. With respect to Applicant's arguments that there is no suggestion of motivation to combine, the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347,21 USPQ2d 1941 (Fed. Cir. 1992). KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision Ex parte Smith, --USPQ2d--,slip op. at 20, (Be. Pat. App. & Interf. June 25, 2007) (citing KSR, 82 USPQ2d at 1396) (available at <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071925.pdf>).

8. Applicant argues that as amended claims 1, 19, 38, 43, 46-49 and 66 include the limitation that the reflective indicator or strip includes an elongation capability between 0% and at least 40% when the netting is elongated. Mass teaches a structure that has the property of elongation from 0% to 40%. Mass was relied upon for teaching the structure of the knitted netting and therefore the previous Office Action rejection is maintained.

9. Applicants argue that there is no teaching, suggestion or motivation to combine Wasserman nor Chizmas in the invention of Mass in view of Tsunefuji. Wasserman is relied upon to teach the feature of a retroreflective fiber as to claims 36 and 37 and Chizmas is relied upon to teach a feature of a "glow-in-the-dark" outer surface as to claims 50 and 51. One of ordinary skill in the art would have recognized that applying the known techniques would have yielded predictable results. With respect to Applicant's arguments that there is no suggestion of motivation to combine, the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347,21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Steele whose telephone number is (571) 272-7115. The examiner can normally be reached on Office Hours Mon-Fri 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S./

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1771

9/25/2007